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SENATE BILL 2470 By
Harper

HOUSE BILL 2382
By Bowers

AN ACT to amend Tennessee Code Annotated, Title 29, relative to encouraging the practice of uncompensated care for low-income patients by providing liability immunity.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, is amended by adding Sections 2 through 6 of this act as a new, appropriately designated part.

SECTION 2. This act may be cited as the "Uncompensated Care Liability Act."

SECTION 3. The legislature hereby finds, determines, and declares that many residents do not receive medical care and preventive health care because they lack health insurance or because of financial difficulties or cost. The legislature also finds that many physicians, hospitals, and other health care providers in this state would be willing to provide medical and allied services without compensation if they were not subject to the high exposure of liability connected with the practice of medicine. The legislature therefore declares that its intention in enacting this act is to encourage the provision of uncompensated medical care in exchange for a limitation on liability for the physicians, surgeons, hospitals, and other health care providers who provide those services. The legislature further declares that the operation of preventative health screening clinics is beneficial to the citizens of this state and that its intent in enacting this act is to encourage the use of such clinics by limiting the exposure to liability.

SECTION 4. As used in this act, "direct remuneration or compensation" means direct receipt by the physician, surgeon, hospital, other health care provider, or organization of

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payment from the patient, or payment or reimbursement from a health insurance company, health maintenance organization, nonprofit hospital and health services corporation or any other third party payor on behalf of the patient, or payment or reimbursement under Medicare, Medicaid, or the TennCare program. The term “direct remuneration or compensation” shall not include any grant or donation, unless the grant or donation is based on the volume of patients receiving care or treatment.

SECTION 5.

(a) Any physician or surgeon licensed under the laws of this state, any hospital licensed pursuant to the laws of this state, or any other health care provider licensed or certified pursuant to the laws of this state who provides medical care to any patient without receiving any direct remuneration or compensation in exchange for rendering such care shall not be liable for any civil damages for acts or omissions unless such acts or omissions were grossly negligent or were willful and wanton.

(b) The exemption from liability provided under subsection (a) of this section shall only apply if, prior to rendering such services:

(1) The physician, surgeon, hospital, or other health care provider discloses to the patient, or, if a minor, to the minor’s parent or legal guardian, in writing, that:

(A) Such services are being provided without receiving direct remuneration or compensation; and

(B) In exchange for receiving uncompensated medical care, the patient consents to waiving any right to sue for professional negligence except for acts or omissions that are grossly negligent or are willful and wanton; and

(2) The patient, or, if a minor, the minor's parent or legal guardian, signs a consent form acknowledging that the patient, or the parent or legal guardian, understands the consequences of such action.

(c) This act shall in no way be construed to apply to nor affect the manner in which emergency medical care is provided pursuant to the provisions of § 63-6-218 commonly referred to as the "Good Samaritan Law".

SECTION 6.

(a) Any organization, including a church, which sponsors, promotes, or organizes a preventive health screening clinic or provides a health screening service to check such indicators as blood pressure or cholesterol levels or other preventative health signs without receiving any direct remuneration or compensation in exchange for the services received shall not be liable for any civil damages for acts or omissions unless such acts or omissions are grossly negligent or willful and wanton.

(b) The exemption from liability under subsection (a) of this section shall only apply if the organization posts in a conspicuous place a notice that in accordance with this act the organization is not liable for any civil damages for acts or omissions except for those acts or omissions that are grossly negligent or are willful and wanton.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall take effect July 1, 1998, the public welfare requiring it.